

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

06/06/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000042

FILED: _____

STATE OF ARIZONA

WEBSTER CRAIG JONES

v.

ECHO WOOD KWIATKOWSKI

MARK S WILLIAMS

MESA CITY COURT
REMAND DESK CR-CCC

MINUTE ENTRY

MESA CITY COURT

Cit. No. 772927

Charge: 1. DUI
2. DUI W/ILLEGAL DRUGS OR METABOLITE IN SYSTEM

DOB: 10/10/75

DOC: 04/24/01

This Court has jurisdiction of this appeal by the State of Arizona pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement without oral argument and the Court has considered and reviewed the record of the

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

06/06/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000042

proceedings from the Mesa City Court, and the Memoranda submitted by counsel.

The only issue presented for review is whether the trial Judge, the Hon. Michelle Lue Sang, erred in denying Appellant's Motion to Suppress the results of a urine test. At the conclusion of an evidentiary hearing held on October 1, 2001, the trial court found as follows:

I have considered the Defendant's Motion to Suppress, the State's response to the Motion to Suppress, the testimony presented today, the State has a form which is a consent to search and the arguments presented and I am going to deny the Defendant's Motion to Suppress.

The court's finding is an explanation of the implied consent law and the procedure that the police would follow in the event of a refusal, it's not a threat, even though the Defendant may have perceived it as a threat in this case. The officer did not threaten her. She simply chose at that point to submit to a urine test so she would not have to be subjected to blood being drawn.¹

An appellate court must give deference to a trial court's factual findings in the context of a Motion to Suppress, including findings regarding the witnesses' credibility and the reasonableness of inferences drawn by those witnesses.² This Court must review those factual findings for an abuse of discretion.³ Only when a trial court's factual findings or inferences are not justified or are clearly against reason and

¹ R.T. of October 1, 2001, at pages 33-34.

² State v. Gonzalez-Gutierrez, 187 Ariz. 116, 927 P.2d 776 (1996); State v. Magner, 191 Ariz. 392, 956 P.2d 519 (App. 1998).

³ See State v. Rogers, 186 Ariz. 508, 924 P.2d 1027 (1996).

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

06/06/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000042

the evidence, will an abuse of discretion be established.⁴ This Court must review *de novo* the legal conclusions made by the trial court.⁵

In this case the trial court concluded that Appellant had voluntarily consented to the search and seizure (seizure of her urine). The trial court's conclusion is supported by State's exhibit #1, which is a consent to search form signed by Appellant, though Appellant states on the form that she was threatened. The evidence presented to the trial court reflects that the only threats made by the officers to Appellant were that they would obtain a telephone search warrant and forcibly withdraw blood from Appellant. Statements by the officers of their intentions if Appellant refused to voluntarily provide a urine sample do not amount to legal threats. They are permissible statements by police officers informing Appellant of the consequences of her actions, and are entirely appropriate.

This Court specifically finds that the trial judge did not err in denying Appellant's Motion to Suppress.

IT IS THEREFORE ORDERED affirming the judgments of guilt and sentences imposed by the Mesa City Court.

IT IS FURTHER ORDERED remanding this case back to the Mesa City Court for all further and future proceedings in this case.

⁴ State v. Chapple, 135 Ariz. 281, 660 P.2d 1208 (1983); State v. Magner, supra.

⁵ State v. Gonzalez-Gutierrez, supra; State v. Magner, supra.